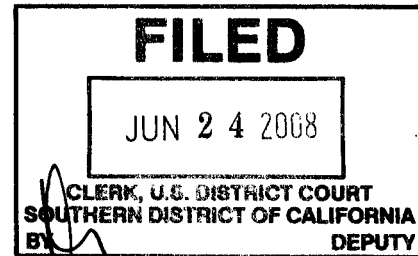


1 KAREN P. HEWITT
United States Attorney
2 CHARLOTTE E. KAISER
Assistant United States Attorney
3 California State Bar No. Pending
United States Attorney's Office
4 Federal Office Building
880 Front Street, Room 6293
5 San Diego, California 92101
Telephone: (619) 557-7031

6 Attorneys for Plaintiff
7 UNITED STATES OF AMERICA



8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

08 CR 2100-L

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 BRANDON NEUMAN STRAND,

15 Defendant.

Magistrate Case No. 08MJ1759

16
17 **STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

18 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
19 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Charlotte
20 E. Kaiser, Assistant United States Attorney, and defendant BRANDON NEUMAN STRAND, by
21 and through and with the advice and consent of defense counsel, Robert Henssler, Federal Defenders
of San Diego, Inc., that:

- 22 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
23 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
24 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
25 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
26 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
27 § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

28 //

CEK:mg:6/12/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **July 11, 2008**.

6 4. The material witness, Omar Torres-Carranza, in this case:

7 a. Is an alien with no lawful right to enter or remain in the United States;

8 b. Entered or attempted to enter the United States illegally on or about
9 June 4, 2008;

10 c. Was concealed inside a non-factory compartment in the dashboard of the
11 vehicle driven by defendant at the San Ysidro, California Port of Entry (POE) and that defendant
12 knew or acted in reckless disregard of the fact that he was an alien with no lawful right to enter or
13 remain in the United States;

14 d. Was paying \$3,200 to others to be brought into the United States illegally
15 and/or transported illegally to his destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to his country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
25 regarding any statements made by the material witness(es) provided in discovery, and such testimony
26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
27 of (an) unavailable witness(es); and,

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Brandon Neuman Strand

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
 3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
 4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
 6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
 7 further that defendant has discussed the terms of this stipulation and joint motion with defense
 8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 10 immediate release and remand of the above-named material witness(es) to the Department of
 11 Homeland Security for return to his country of origin.

12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 KAREN A. HEWITT
 United States Attorney

15
 16 Dated: 24 June 08

17 CHARLOTTE E. KAISER
 Assistant United States Attorney

18
 19 Dated: 6/13/08

20 ROBERT HENSSLER
 Defense Counsel for Brandon Neuman Strand

21
 22 Dated: 6/13/08

23 Brandon Strand
 BRANDON NEUMAN STRAND
 Defendant

24
 25
 26
 27
 28 Stipulation of Fact and Joint Motion for Release of
 Material Witness(es) And Order Thereon in
 United States v. Brandon Neuman Strand

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to his country of origin.

SO ORDERED.

Dated: 6/24/2008.


United States Magistrate Judge